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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 4th August, 2017:—

I

BILL NO. XXVI OF 2017

A Bill to provide for prevention of acid attacks by regulation of sale, supply and use of acid and other measurs and rehabilitation of women victims of acid attacks and for matter connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commence-ment.

1. (*1*) This Act may be called the Prevention of Acid Attacks and Rehabilitation of Acid Attack Victims Act, 2017.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "acid" means any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability;

(*b*) "acid attack victim" means a woman on whom acid has been poured or sprinkled with the intention of causing bodily injury or disfigurement and who, as a consequence of such act, has suffered any bodily injury or disfigurement effected by chemical action of the acid.

(*c*) "appropriate Government",—

(*i*) in relation to a Union territory, means the Central Government; and

(*ii*) in relation to a State, means the Government of that State.

(*d*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

REGULATION OF SALE, SUPPLY AND USE OF ACID

Regulation of production, sell etc. of acid.

3. (*1*) No person shall engaged the business or trade of production, import, storage, sale or delivery or transport of acid of any intensity unless he obtains the license issued by an appropriate authoirty in such manner as may be prescribed to carry on such business or trade.

(*2*) Every such person engaged in the business or trade of acid shall maintain appropriate records regarding the quantity of acid and its concentration and chemical composition.

(*3*) No person shall sell or otherwise deliver to a person an acid of higher concentration than the prescribed degree for the intended use by such person.

(*4*) No person shall sell or otherwise deliver acid to a person without keeping a record of his identity, the quantity of acid and the purpose for which the acid is to be used.

Classification of acid concentration for different purposes.

4. (*1*) The Central Government shall by notification in the Official Gazette specify the kinds and degrees of concentration of acid to be used for different purposes.

(*2*) The use of acid of greater then the prescribed concentration for any purpose shall be prohibited.

CHAPTER III

REHABILITATION OF ACID ATTACK VICTIMS

Acid attack victims to be treated as persons with disability in certain cases.

5. Where an acid attack has caused such substantial bodily harm or disfigurement to the victim, as may be prescribed, such victim shall be deemed to be person with disability for the purposes of availing benefits under various schemes, including employment under the Central Government, any State Government, any local body, autonomous bodies under any Government or any public sector undertakings.

Allowance to acid attack victims.

6. Where an acid attack victim has suffered such bodily harm or disfigurement in an acid attack that it is likely to impair her chances of obtaining gainful employment or carry on any gainful occupation, the appropriate Government shall pay a monthly allowance to such victim and the amount of such allowance shall not be less than four times the amount of old age pension payable at the place where the victim ordinarily resides.

CHAPTER IV

OFFENCES AND PENALTIES

Offences and penalties.

7. Any person who contravenes the provisions of section 3 or section 4 shall be punishable with simple imprisonment which may extend to six months or with fine extending to five lakh rupees or with both.

8. In the Indian Penal Code, 1860 (hereinafter referred to as the code) in section 326 A for the words, "and with fine", the words "and with fine which shall not be less than rupees ten lakh" should be substituted. Amendment of section 326A.

9. In the Code, in section 326 B, for the words "seven years and shall also be liable to fine", the words "ten years, and shell also be liable to fine which shall not be less than three lakh rupees" shall be substituted. Amendment of section 326B.

CHAPTER V

AMENDMENT OF THE INDIAN PENAL CODE

45 of 1860.

10. In section 326B of the Indian Penal Code, 1860 for the words "which may extend to seven years", the words "which may extend to ten years" shall be substituted. Amendment of section 326B of the Indian Penal Code, 1860.

CHAPTER VI

AMENDMENT TO THE CODE OF CRIMINAL PROCEDURE

2 of 1974.

11. In section 357C, of the Code of Criminal Procedure, 1973 (hereinafter referred to as the code of criminal Procedure) the following Explanation shall be inserted, namely,— Amendment of section 357C.

"Explanation. For the purposes of this section, any reconstructive procedures and surgeries required shall be treated as medical treatment."

12. In the First Schedule to the Code of Criminal Procedure, under the heading "I.- OFFENCES UNDER THE INDIAN PENAL CODE", in the entry relating to section 326B, in column 3, for the words and number "which may extend to 7 years and with fine", the words and number "Which may extend to 10 years and shall also be liable to fine which shall not be less than three lakh rupees" shall be substituted. Amendment of the First Schedule.

CHAPTER VII

MISCELLANEOUS

13. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for Removing the difficulty. Power to remove difficulties.

14. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.

15. (*1*) The central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act. Power to make rules.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if , before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only is such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

National polemics has directed people's attention time and again to the question whether India is a place safe enough for women to live. Despite an avowed superior position culturally assigned to women and a plethora of laws for the protection of women, the fate of women by and large remains unaltered, as a study corroborates that four in ten women face some kind of violence or harrassment before the age of 19 years. What is even more perturbing is that there are certain forms of violence against women which emanate from the medieval mindset of subjugation of women and continue till this day. One manifestation of this mindset is incidents of acid attacks on women.

Though acid attack is a crime which can be committed against any man or women, it has a specific gender dimension in India. Most of the reported acid attacks have been committed on women, particularly young women for spurning suitors, for rejecting proposals of marriage. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the women who has dared to stand up to him. It is not surprising that the incidence of acid attacks is deeper in States with patriarchal leanings.

Until 2013, there was no clear mechanism to ascertain the number of cases involving acid attacks since the Indian Penal Code did not recognise it as a separate offence. The offence of acid attack was tried under various sections of the Indian Penal Code (IPC) and only estimates of figures of such attacks were available. The Criminal Law (Amendment) Act, 2013 inserted new sections 326A and 326B in the Indian Penal Code and made specific offences of hurt by use of acid.

Though cases of acid attacks on women have been witnessed for decades, the need to address the legislative framework underlying the offence of acid attack was emphasised by the Supreme Court in Laxmi vs. Union of India. In this case, the court issued directions *inter alia* regarding compensation to acid attack victims, effective regulation of sale of acid and free treatment of victims. Some of these guidelines have been incorporated in law. Still, there is little clarity on issues such as penal provisions against dealers making unregulated sales of acid, adequacy of the amount of compensation of victims, their status as persons with disabilities, etc.

In order to facilitate rehabilitation of acid attack victims and to prevent unregulated sale of acid, the Bill proposes to make the following provisions:—

(i) to provide for classification of acid on the basis of its intensity and concentration and to prevent sale of acid of higher concentration for day-to-day purposes;

(ii) to provide that acid shall not be sold without verifying identity of the buyer and the purpose of its use;

(iii) to provide that proper records of stock, sales, etc. of acid shall be maintained by dealers;

(iv) to make unregulated sale of acid an offence punishable with six months imprisonment and fine;

(v) to provide that acid attack victims shall be treated as persons with disabilities for the purposes of availing benefits under various schemes of the Governments, including employment under the Central Government, State Governments or bodies thereunder;

(vi) to increase the maximum quantum of punishment for acid attack under section 326B of the Indian Penal Code to imprisonment for ten years;

(vii) to stipulate the minimum amount of compensation for acid attack victims as ten lakh in cases of grievous hurt and three lakh in other cases or such higher amount as may be specified;

(viii) to provide monthly allowance to certain victims of acid attacks; and

(ix) to provide that any reconstructive cosmetic surgeries shall be treated as medical treatment in case of acid attack victims.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 5 provides for entitlement of employment to the victims of acid attack.

Clause 6 of the Bill seeks to provide a monthly allowance to certain victims of acid attacks. Expenditure on this count shall be borne by the Central Government insofar as such cases relate to the Union Territories. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give an estimate of recurring or non-recurring expenditure involved since it would depend upon the number of eligible acid attack victims.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made or notification issued in accordance with the aforesaid provisions of the Bill are matters of procedure and details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is therefore of a normal charachter.

II

BILL NO. XXI OF 2017

A Bill further to amend the Indian Contract Act, 1872.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Indian contract (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new Chapter VIA.

9 of 1972.

2. After Chapter VI of the Indian Contract Act, 1872 the following Chapter shall be inserted, namely—

"CHAPTER VIA

SPECIAL PROVISIONS RELATING TO FARMING CONTRACTS

Definitions.

75A. In this Chapter, unless the context otherwise requires,—

(a) "agricultural produce" means all produce, whether processed or not, of agriculture, apiculture, sericulture, horticulture, animal husbandry or forest;

(b) "appropriate Government"—

(i) in relation to a Union territory, means the Central Government; and

(ii) in relation to a State, means the Government of that State;

(c) "buyer" means any person who has agreed to buy the produce of a farmer which the latter will produce in accordance with the contract farming agreement;

(d) "contract farming agreement" means an agreement between a farmer and buyer of agricultural produce, whereby the farmer agrees to produce and supply to the buyer such quantity of an agricultural product with specified quality standards as may be agreed between them and the buyer agrees to provide to the farmer various farm inputs and technical assistance on such terms and conditions as may be agreed between them;

(e) "Committee" means the Dispute Resolution Committee constituted under section 75-I of this Act.

(f) "prescribed" means prescribed by rules made under this Chapter.

Registration of Contract Farming Agreement.

75B. Every contract farming agreement shall be registered in such manner as may be prescribed and no such agreement shall be valid unless it is so registered with the appropriate authority.

Period of Contract Farming Agreement.

75C. The minimum period of a contract farming agreement shall be one crop season and the maximum period shall be two years.

Commitments of buyer and farmer under Contract Farming Agreement.

75D. The contract farming agreement shall clearly lay down, *inter alia,* the following—

(a) the commitments of the buyer in terms of supply of agricultural inputs, technical assistance and the stages at which pecuniary consideration shall be payable to the farmer;

(b) commitments of the farmer in terms of quantity and quality of agricultural produce to be supplies;

(c) the extent to which the interest of the farmer shall be secured by insurance by the buyer against failure of crop or destruction of agricultural produce due to unforeseen contingencies or events beyond the control of the farmer; and

(d) such other matters as may be prescribed by rules made under this Act.

Buyer's obligation to support production.

75E. The buyer shall provide support to production through, but not limited to, supply of inputs, technical assistance and any other activity related thereto specified in the agreement:

Provided that where the buyer fails to fulfil any of his obligations for production support under the contract farming agreement, and it causes a pecuniary loss to the farmer or any loss in terms of yield of agricultural produce, the buyer shall be liable to copensate the farmer for such loss.

Protection of interests of farmer.

75F. It shall be the obligation of the buyer to secure by insurance the interests of the farmer against failure of crop or destruction of agricultural produce due to unforeseen contingencies or events beyond the control of the farmer.

Recovery of loans, advances and dues by buyer from farmer.

75G.(*1*) The buyer shall be entitled to recover any loans, advances or dues owed by farmer to him from the amount of consideration unless anything contrary is provided in the contract farming agreement:

Provided that no amount owed by farmer to the buyer or a financial institution in connection with a contract farming agreement shall be recoverable by way of sale or lease of any agricultural land owned by the farmer.

Seizure of produce from buyer on failure to pay consideration.

75H. (*1*) If there are sufficient reasons to believe that the buyer is evading payment of consideration amount to the farmer, the agricultural produce purchased by the buyer shall be seized in such manner as may be prescribed.

(*2*) The seizure of produce under sub-section (*1*) of section 75H shall be without prejudice to the right of the farmer to seek compensation for any loss caused to him.

Resolution of Disputes as to Contract Farming Agreement.

75 I. (*1*) The appropriate Government shall constitute a Dispute Resolution Committee at district level for resolution of all disputes arising out of contract farming agreements, in such manner as may be prescribed.

(*2*) On a dispute being brought before the Committee by the farmer or the buyer, the Committee, after giving a reasonable opportunity of being heard to each party to the dispute, shall pass an order within two months or such shorter period as may be prescribed.

(*3*) The Committee shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of persons, compelling them to give evidence on oath and producing documents or things;

(*b*) requiring the discovery and inspection of documents;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public records or copies thereof from any court or office;

(*e*) issuing summons for examination of witnesses or documents; and

(*f*) any other matter which may be prescribed.

Bar of Jurisdiction of courts.

75J. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by the committee.

Organising marginal farmers in cooperatives.

75K. The appropriate Government shall establish, within a period of six months of coming into force of this Act, a mechanism to organise small and marginal farmers, who are desirous of engaging in contract farming, in farmers cooperatives.

Establishment of an authority for Qualitative Assessment of agricultural produce.

75L. (*1*) The appropriate Government shall establish, within a period of six months of coming into force of this Act, a mechanism to make qualitative assessment of all agricultural produce, as may be prescribed.

(*2*) In case of a difference of opinion between the farmer and the buyer as to the qualitative aspects of agricultural produce, the decision of the competent authority established by the appropriate Government for qualitative assessment under this section shall be final."

STATEMENT OF OBJECTS AND REASONS

Agriculture has been and continues to be the backbone of Indian society and economy. Even in today's era of economic liberalisation where gigantic corporations, both domestic and multi-national, control majority of economic activities, farm incomes still are an important driver of economy. This is so since even today, agriculture employs about half of our workforce, though it only accounts for one-sixth of total Gross Domestic product (GDP). That is why any decline in farm incomes tends to have a decelerative impact on the entire economy; and the converse holds too. The economic importance of sustaining farm incomes cannot, therefor, be overemphasised. Acknowledging the significance of farm incomes, the present Government has set a target to double farm incomes by the year 2022.

The model of contract farming was touted as one such model which could help ameliorate the plight of poor farmers of India. The model was successfully applied by many large corporations in different parts of the country including cultivation of basmati rice in Punjab and parts of western Uttar Pradesh; cotton in Tamilnadu and barley in northern Karnataka. However, of late, the farmers and sponsoring companies have been facing several problems which have dented the expectations from the contract farming model. Some of the problems faced are:—

(i) As per agricultural census of 2010-2011, the average size of operational agricultural land holding is 1.15 hectare and marginal holdings (less than 1 hectare) account for about 67% of total operational holdings. Given the scale and nature of contract farming, it is obvious that such small sized holdings are not suitable for contract farming. As a result, small and marginal farmers are excluded from the benefits of contract farming.

(ii) There have been incidents where sponsoring companies have reneged on their contractual obligations on the pretext of sub-standard quality of agricultural produce or delay in delivery of produce and the like. In some cases, farmers have also failed to fulfill their contractual obligations and sold their produce in open market when market prices have risen considerably. This has vitiated the environment encompassing contract farming and created trust deficit between parties to the contract.

(iii) Some companies have failed to supply proper agri-inputs and make timely payments to farmers during the production process and after the produce has been delievered to them.

(iv) Many a time, farmers, who have borrowed money to finance agricultural operations, have been caught in difficult situations due to delay in payments by companies.

(v) There is lack of fair and reliable mechanism to assess the qualitative parameters of farm produce, due to which farmers have to rely completely on the internal mechanisms of buyer companies, which often compromise the interests of farmers in favour of the companies.

Considering the problems being faced by farmers and the fact that farmers are in no position to bargain when faced with the financial might of large corporations, it becomes necessary that suitable safeguards within the legislative framework are provided to farmers. It is, therefore, proposed to amend the Indian Contract Act, 1872 to insert a new Chapter relating to farming contracts, providing *inter alia* that:—

(i) Every contract farming agreement shall be registered in such manner as may be prescribed;

(ii) The contract farming agreement shall clearly spell out the obligations of the buyer and the farmer so as to avoid any dispute;

(iii) The appropriate Government shall constitute district-level Dispute Resolution Committees to resolve disputes arising out of contract farming agreements;

(iv) The Committee shall resolve a dispute within two months or such shorter period as may be specified by rules;

(v) The buyer shall secure the interests of farmer by insurance against unforeseen contingencies;

(vi) The appropriate Government shall establish suitable mechanism for qualitative assessment of agricultural produce;

(vii) The appropriate Government shall organise small and marginal farmers in cooperatives so that their interests *vis-a-vis* large corporations are duly protected; and

(viii) The buyer shall be under obligation to support production process through supply of inputs, providing technical assistance, etc.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert new section 75 I in the Indian Contract Act, 1872 providing for establishment of district level Dispute Resolution Committees. In so far as such Committees are constituted in Union Territories, the enactment of the Bill shall involve expenditure out of the Consolidated Fund of India. It is estimated that a non-recurring expenditure of rupees ten crore and a recurring expenditure of rupees two crore per annum shall be required to be incurred to implement the above legislative proposal. The Bill does not involve and other recurring or non-recurring expenditure.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

The proposed section 75B provides that the manner of registration of contract farming agreements may be prescribed by rules. Sub-clause (d) of proposed section 75D provides that the Central Government may by rules specify the matters which may be laid down in a contract farming agreement. The proposed section 75H provides that the manner of seizure of agricultural produce may be specified by rules. Sub-section (*2*) of section 75I provides that in certain cases a period shorter than two months may be prescribed by rules for dispute resolution under that section.

The matters in respect of which the rules and regulations may be made under the aforesaid provisions among others are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

III

BILL NO. XXIII OF 2017

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short Title and commencement

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 75.

2. In article 75 of the Constitution:—

(*i*) after clause (*1B*), the following clause shall be inserted, namely,—

"(1C) A member of either House of Parliament belonging to any political party against whom a petition for disqualification under the Tenth Schedule is pending before the Competent Authority shall not be eligible to be included in the Council of Ministers till the disqualification petition is set aside by the Competent Authority:

Provided that if a disqualification petition under the Tenth Schedule is filed against a member of the Council of Ministers belonging to any political party, the competent Authority under the Tenth Schedule shall take its decision within one hundred and eighty days from date of filing such petition."

(*ii*) after clause (*4*) the following clause shall be inserted namely,—

"(4A) A member of the either House of Parliament belonging to a political party other than the political party to which the Prime Minister belongs shall submit a written consent from the head of the Polical party to which he or she belongs for his or her inclusion in the Council of Ministers to the President before taking oath of office and of secrecy according to forms set out for the purpose in the Third Schedule."

Amendment of article 164.

3. In article 164 of the Constitution,—

(*i*) after clause (*1B*), the following clause shall be inserted namely,—

(1C) A member of the Legislative Assembly of a State of either House of the Legislature of a State having Legislative Council belonging to any political party against whom a petition for disqualification under the Tenth Schedule is pending before the Competent Authority shall not be eligible to be included in the Council of Ministers till the disqualification petition is set aside by the Competent Authority.

Provided that if a disqualification petition under the Tenth Schedule is filed against a member of the Council of Ministers belonging to any political party, the competent authority under the Tenth Scheule shall take its decision within one hundred and eighty days from date of filing such petition.

(*ii*) after clause (*3*) of the Constitution, the following clause shall be inserted namely,—

(3A) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to a political party other than the political party to which the Chief Minister belongs shall submit a written consent from the head of the Political Party to which he or she belongs for his or her inclusion in the Council of Ministers to the Governor before taking oaths of office and of secrecy according to forms set out for the purpose in the Third Schedule.

STATEMENT OF OBJECTS AND REASONS

In a democratic country, the political parties are the integral part. The political parties before the independence had formed with a firm ideology and strong basic principle and any action of any member in the party deviating from its basic principle is considered as anti-party activity. However, over the period the political parties have given go bye to their basic ideology and started changing the principles of the party over the particular issues. Differing from other parties over the basic ideology is not seen in the activities of political parties today and they are ready to mingle with other political parties having exactly opposite ideology, based on issues and circumstances.

In the changing scenario, the members of political parties also changing loyalities over the night and venturing into other political parties particularly in ruling for their personal prospects. The parties in power also concentrating to achieve success by weakening the opposition parties by attracting leaders and cadres from other parties rather than strengthening their own party by doing good to the people.

Though the Constitution was amended to curb this political evil of defection by introducing Tenth Schedule to the Constitution, the new practice to keep pending the disqualification petitions on the grounds of defection by the Chairman or Speaker for years together is undesirable . During the pendency of these disqualification petitions, the defected members are being offered remunerative political posts including post of a Minister apart from Government contracts.

This Bill seeks to further amend Constitution to prohibit these defectors to enter into the Ministerial berths. Further this Bill also seeks to insist a consent letter from the head of the party to include its party's legislator into Cabinet to ensure member's loyalty to the party during coalition Governments. Further, any legislator of party after joining the cabinet ventures to anti-party activities, the party can file a disqualification petition before the competent authority for his disqualification, which the competent authority has to decide in one-hundred and eighty days.

Hence the Bill.

Dr. K.V. P. RAMACHANDRA RAO

IV

BILL NO. XXII OF 2017

A Bill further to amend the Armed Forces (Special Powers) Act, 1958 and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Armed Foces Special Powers (Amendment) Act, 2017.

(*2*) It shall come into force with immediate effect.

Amendment of section 6.

2. In the Armed Forces (Special Powers) Act, 1958, in section 6, the following provisions shall be inserted, namely:— 28 of 1958.

"Provided that the Central Government shall take a decision on sanction for institution of prosecution, suit or any other legal proceeding within three months of receiving a request for the same, failing which the sanction shall be deemed to have been given and where such sanction is expressly denied, it shall be communicated, along with the reasons, to the complaints and families of the victims, if any:

Provided further that no such sanction for institution of any prosecution, suit or any other legal proceeding shall be required if there is allegation of commission of

sexual offence under section 354B, section 375, section 376, section 376A, section 376C or section 376D of the Indian Penal Code, 1860".

45 of 1860.

21 of 1990.

3. In the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, in section 7, the following provisions shall inserted, namely:— Amendment of section 7.

"Provided that the Central Government shall take a decision on sanction for institution of prosecution suit or any other legal proceeding within three months of receiving a request for the same, failing which the sanction shall be deemed to have been given and where such sanction is expressly denied, it shall be communicated, along with the reasons, to the complaints and families of the victims, if any:

Provided further that no such sanction for institution of any prosecution, suit or any other legal proceeding shall be required if there is allegation of commission of sexual offence under section 354B, section 375, section 376, sections 376A, section 376C or section 376D of the Indian Penal Code, 1860".

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Armed Forces (Special Powers) Act (AFPSA), 1958 and the Armed Forces (Jammu & Kashmir) Special Powers Act, 1990 have been in operation in several North-Eastern and Jammu and Kashmir States of the country for many years now. The rise of insurgency and militancy in these States had necessitated the enforcement of this Act in order to enable armed forces to aid the civilian police forces in maintenance of law and order.

Over the years, however, the Acts have attracted widespread criticism for breeding a culture of impunity with serious allegations of grievous offences like murder, rape, fake encounters,enforced disappearances having been committed in the name of counter-insurgency operations. One of the reasons for such criticism has been the requirement of sanction from Central Government for launching prosecution against any member of Armed Forces under the AFSPA. Because such sanction does not come in a timely manner or does not come at all, there is hardly any accountability for the offences committed.

The Hon'ble Supreme Court in the case of Naga People's Movement of Human Rights notes that, 'In order that the people may feel assured that there is an effective check against misuse or abuse of powers by the members of the armed forces it is necessary that a complaint containing an allegation about misuse or abuse of the powers conferred under the Central Act, AFSPA should be thoroughly inquired into and, if it is found that there is substance in the allegation, the victim should be suitably compensated by the State and the requisite sanction under section 6 of the AFSPA should be granted for instruction of prosecution'.

In yet another writ petition asking for investigation for 1528 cases of enforced disappearances in Manipur (Extra judicial Execution Victim Families Association *Vs*. Union of India), the Hon'ble Supreme Court notes that, 'The law is therefore very clear that if an offence is committed even by army personnel, there is no concept of absolute immunity from trail by the criminal court constituted under the code of criminal procedure. To contend that this would have a deleterious and demoralizing impact on the security forces is certainly one way of looking at it, but from the point of view of a citizen, living under the shadow of a gun that can be wielded with impunity, outright acceptance of the proposition advanced is equally unsettling and demoralizing particularly in a constitutional democracy like ours'.

The Justice Santosh Hegde Committee constituted by the Hon'ble Supreme Court in the above with petition recommended that the Central Government be given a reasonable time limit to pass order on sanction under the AFSPA, preferably within three months from the date of its receipt of the request of the prosecution, failing which its sanction shall be presumed.

The situation attains an alarming level of seriousness when the offences committeed are sexual in nature which clearly have an element of subjugation of the opposite gender and require severe condemnation. The Justice Verma Committee recommended that there should be no need for sanction for initiating prosecution in certain sexual offences and stated in its report that, 'we notice that impunity for systematic or isolated sexual violence in the process of Internal Security duties is being legitimized by the AFSPA.'

Therefore, the Bill intends to prescribe a time limit for decision on sanction failing which the sanction shall be deemed to have been given and where it has been denied, it must be supported with reasons in writing. In case of sexual offences though, there should be no need of prior sanction.

Hence, this Bill

HUSAIN DALWAI

V

BILL NO. XXIV OF 2017

A Bill further to amend the Indian Penal Code , 1860

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2017.

(*2*) It shall come into force with immediate effect.

Amendment of section 153A.

2. In section 153A of the Indian Penal Code (hereinafter referred to as the Code) after sub-section (*2*), the following be inserted, namely:

'Offence committed out of bias or prejudice—(3) Whoever commits an offence made punishable under this Code or provokes the commission of such an offence, which is perceived by the victim or any other person, to be motivated by a bias or prejudice based on the victim's actual or perceived religion, caste, profession, trade, place of residence, choice of attire, appearance or eating habits, shall be punished either with imprisonment which may extend to five years, or the punishment provided for that offence in the Code whichever is higher, and shall also be liable to fine:

Provided that where such offence results in the death of a person or a number of persons, the punishment shall extend to life imprisonment and fine.'

Insertion of a new Section 153C.

3. After section 153B of the Code, the following section be inserted namely:

Vigilantism.

'**153C**—whoever commits an offence made punishable by the Code, against the body or property of a person, which is committed on the basis of actual or suspected commission of an offence by that person, except when the offence is committed in exercise of right of private defence as provided under this Code, shall be punished either with imprisonment which may extend to three years, or with the punishment for that offence provided under this Code, whichever is higher, or with fine or both:

Provided that where such offence results in the death of a person or a number of person, the punishment shall extend to life imprisonment and fine.'

STATEMENT OF OBJECTS AND REASONS

In recent times, India has seen an alarming rise in incidents of mob-violence, hate crimes and vigilante justice. In all these cases, the *modus operandi* is similar—a group of people identify a victim on the basis of their religion, caste, appearance, attire, earing habits or profession and attack the victim, which sometimes proves to be fatal. Such attacks are either driven by an ideology in which case it takes the shape of a hate crime or it is driven by an urge to take the law in their own hands and punish the victim on mere suspicion of an offence having been committed.

Hate crimes as well as vigilantism are treated as offences in many countries, attracting even stricter penalties than ordinary crimes because they tend to offend public tranquility, create a feeling of disharmony and undermine the faith of people in law and justice machinery of the State. When such offences are directed towards people of a particular community, then it also creates a sense of alienation and negatively impacts the social fabric of the society. Such acts are to be condemned and appropriately punished in order to uphold the civic and fundamental rights of the citizens. There can be no culture of State indifference of impunity in such cases as they speak of a larger malaise rather than one-off disconcerted incidents.

Therefore, there is an urgent need to describe the contours of hate crimes and vigilantism in order to deal with them effectively.

Hence this Bill.

HUSAIN DALWAI

VI

BILL NO. XXV OF 2017

A Bill further to amend the Medical Termination of Pregnancy Act, 1971.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title, and commencement.

1. (*1*) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 2017.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

34 of 1971.

2. In section 3 of the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the Principal Act), in sub-section (*2*), clause (*b*), for the word 'twenty', the words 'twenty four' shall be substituted.

Amendment of section 6.

3. In section 6 of the Principal Act, in sub-section (*3*),—

(*i*) after the words "one session or in two" the words "or more" shall be inserted;

(*ii*) for the words "in which it is so laid or the session immediately following" the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Sub-section (*2*) of Section 3 of the Medical Termination of Pregnancy Act, 1971, allows the abortion of terminally ill foetuses upto twenty weeks pregnancy. During the intervening period after the Act was enforced, several genuine cases have come up where the fact of foetuses with serious risk of abnormalities with grave risk to physical and mental risk to mother had been noticed after twenty weeks. As a result, many women were forced to move the Supreme Court for permission to end pregnancy beyong twenty weeks, leading to lot of mental and financial hardship to such pregnant women.

The Bill intends to extend the permissible period for abortion from twenty weeks to twenty four weeks if doctors believe the pregnancy involves a substantial risk to the mother or the child or if there are substantial fetal abnormalities. The Bill also intends to amend the provisions of sub-section (*3*) of section (*6*) relating to laying of rules before each House of Parliament and their notification etc. by the House.

DR. KANWAR DEEP SINGH

———

SHUMSHER K. SHERIFF,
Secretary-General.

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